

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3

4 YE GUANGLUI,

5 Petitioner,

6 v.

7 U.S. ATTORNEY GENERAL,

8 Respondent.

9 Case No. 2:21-cv-00060-GMN-BNW

10

11 ORDER

12 This is a habeas corpus action brought under 28 U.S.C. § 2241 by Ye Guanglui,
13 an individual incarcerated at Nevada's Southern Desert Correctional Center. Guanglui
14 filed his petition for writ of habeas corpus (ECF No. 1) on January 11, 2021.

15 The Court has examined Guanglui's petition and determines that it is subject to
16 dismissal because the Court lacks jurisdiction over it.

17 Guanglui's petition alleges that he was ordered removed to China on June 18,
18 2020, and he is awaiting removal. See Petition for Writ of Habeas Corpus (ECF No. 1),
19 pp. 3, 7. He claims that detention beyond 180 days following a final order of removal is
20 illegal. *Id.* at 7. He states that he has not appealed the removal order or sought any
21 administrative remedy in any forum. *Id.* at 3, 5, 6. He seeks "release from detention or a
22 bond hearing." *Id.* at 8.

23 Federal courts are courts of limited jurisdiction with the power to hear cases only
24 when authorized by the Constitution and statute. *Kokkonen v. Guardian Life Ins. Co. of*
25 *Am.*, 511 U.S. 375, 377 (1994). "Dismissal for lack of subject matter jurisdiction is
26 appropriate if the complaint, considered in its entirety, on its face fails to allege facts
27 sufficient to establish subject matter jurisdiction." *In re Dynamic Random Access*
28 *Memory (DRAM) Antitrust Litig.*, 546 F.3d 981, 984–85 (9th Cir. 2008).

1 8 U.S.C. § 1252(g) limits the judiciary's power to hear immigration matters:

2 Except as provided in this section and notwithstanding any other provision
3 of law (statutory or nonstatutory), including section 2241 of Title 28, or any
4 other habeas corpus provision, and sections 1361 and 1651 of such title,
5 no court shall have jurisdiction to hear any cause or claim by or on behalf
6 of any alien arising from the decision or action by the Attorney General to
7 commence proceedings, adjudicate cases, or execute removal orders
8 against any alien under this chapter.

9 Additionally, 8 U.S.C. § 1252(a)(5) and (b)(9) limit judicial review of removal orders to
10 appeals to the court of appeals following completion of established administrative
11 process, and these provisions expressly preclude habeas jurisdiction over challenges to
12 removal orders. Section 1252(b)(9) provides:

13 Judicial review of all questions of law and fact, including interpretation and
14 application of constitutional and statutory provisions, arising from any
15 action taken or proceeding brought to remove an alien from the United
16 States under this subchapter shall be available only in judicial review of a
17 final order under this section. Except as otherwise provided in this section,
18 no court shall have jurisdiction, by habeas corpus under section 2241 of
19 Title 28 or any other habeas corpus provision, by section 1361 or 1651 of
20 such title, or by any other provision of law (statutory or nonstatutory), to
21 review such an order or such questions of law or fact.

22 “[W]hen a claim by an alien, however it is framed, challenges the procedure and
23 substance of an agency determination that is ‘inextricably linked’ to the order of
24 removal, it is prohibited by section 1252(a)(5).” *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1032
25 (9th Cir. 2016) (quoting *Martinez v. Napolitano*, 704 F.3d 620, 623 (9th Cir. 2012)).

26 It is plain, in Guangliu’s petition, that he challenges a removal order, and
27 proceedings inextricably linked to such order; sections 1252(a)(5), (b)(9) and (g) apply
28 and preclude this Court from exercising subject matter jurisdiction over this case. The
Court will dismiss this action.

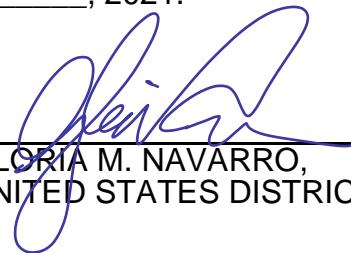
29 The Court need not determine whether a certificate of appealability is warranted.
30 28 U.S.C. § 2253(c)(1) does not require a certificate of appealability for an appeal
31 because this would be an appeal from an order dismissing a petition for writ of habeas
32 corpus under 28 U.S.C. § 2241, not a final order in a habeas proceeding in which the
33 detention complained of arises out of process issued by a state court or a final order in
34 a proceeding under 28 U.S.C. § 2255. See *Forde v. U.S. Parole Commission*, 114 F.3d

1 878, 879 (9th Cir. 1997). Guanglui may appeal by filing a timely notice of appeal in this
2 action, in this Court.

3 **IT IS THEREFORE ORDERED** that this action is dismissed.

4 **IT IS FURTHER ORDERED** that the Clerk of the Court is directed to enter
5 judgment accordingly.

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7 DATED THIS 14 day of January, 2021.

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10 
11 GLORIA M. NAVARRO,
12 UNITED STATES DISTRICT JUDGE

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